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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by Liberation, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[11 March 1997]

1. The armed conflict on the island of Sri Lanka, the continuing violations of humanitarian law, and the genocidal proportions of the current Sri Lanka offensive in the Tamil homeland cause our organizations serious and grave concern.

2. As long ago as September 1983, the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, by resolution 1983/16, expressed its deep concern at the communal violence in the island, invited the Government of Sri Lanka to submit information concerning the violence and recommended to the Commission that it should examine the situation.

3. Three years later, in March 1987, the Commission, recalling its decision 1984/111 of 14 March 1984, by unanimous resolution (1987/61) called upon the parties to the armed conflict "to respect fully the universally accepted rules of humanitarian law", and appealed to Sri Lanka "to intensify its cooperation with the International Committee of the Red Cross in the fields of dissemination and promotion of international humanitarian law".

4. On 22 August 1990, at the forty-second session of the Sub-Commission, 17 non-governmental organizations called upon all parties to the conflict to abide by all the rules of humanitarian law governing armed conflicts, and to allow humanitarian aid operations by the International Committee of the Red Cross and other similar organizations.

5. In February 1993, at the forty-ninth session of the Commission, 24 non-governmental organizations, in a joint statement, declared:

> "Violations of human rights and humanitarian law in Sri Lanka continue to an alarming degree. We are particularly concerned because at this time the Government of Sri Lanka is making no effort to resolve the armed conflict in the North and East in any other way but militarily ... We urge the Commission to adopt a resolution on Sri Lanka in which it ... reminds all parties to the conflict of their obligations to comply fully with all humanitarian laws of armed conflict, including those set out in the Geneva Conventions of 1949 ...".

6. In the following year, in February 1994, at the fiftieth session of the Commission, 17 non-governmental organizations urged yet again that there was a need to recognize that the deep divisions between the Sri Lankan Government and the Tamil people could not be resolved by the use of force against Tamil resistance.

7. In August 1995, 19 non-governmental organizations in a joint written statement submitted to the forty-seventh session of the Sub-Commission said:

> "During the past 12 years, the United Nations Commission on Human Rights and the Sub-Commission have heard hundreds of statements expressing grave concern at the situation prevailing in the island of Sri Lanka. The record shows that it was the oppressive actions of successive Sri Lankan Governments from as early as 1956 and in 1958, and again in 1961, and again with increasing frequency from 1972 to 1977, and culminating in the genocidal attacks of 1983 that resulted in the rise of the lawful armed resistance of the Tamil people."

8. We are alarmed that during the past year, Sri Lanka has intensified its genocidal war against the Tamil people. Tamil villages have been indiscriminately shelled and subjected to aerial bombardment. The "broad front" strategy adopted by the Sri Lankan Army, to "steamroller" their advance into the Tamil homeland has devastated acres of cultivable land, destroyed homes and forced hundreds of thousands of Tamil civilians to flee their homes and seek refuge in the areas of the Tamil homeland remaining in the control of the Tamil resistance movement.

9. There are an estimated 400,000 displaced persons in the Vanni jungle region in the north of Sri Lanka that is largely under the control of the Liberation Tigers of Tamil Eelam (LTTE). Many of the displaced Tamils, possibly as many as half, do not receive government assistance, allegedly because the Government views the group as possible LTTE supporters. Sri Lanka has imposed an economic blockade on these areas and, in breach of humanitarian law, food and medicine have been used as weapons of war.

10. The plight of refugees and the displaced are of increasing concern. The camps are overcrowded and sanitary facilities almost non-existent. Water supply to the refugees in the Vanni remains a problem. Food is in short supply. The continual movement of the population following military operations makes distribution difficult and even the food that is available is not reaching many people.

11. Numerous cases of Sri Lanka's arbitrary retaliatory attacks on Tamil non-combatants, gang rape of Tamil women, arbitrary arrests, beatings and death due to torture have been reported in the areas of the Tamil homeland occupied by the Sri Lankan Army. The majority of arrests and detentions remain unacknowledged. Sri Lanka has also used shadowy paramilitary groups to abduct and torture Tamils. The Sinhala Army has gang-raped Tamil women and murdered them with impunity. There have been over 150 reported cases of rape during the past year.

12. The conclusion appears inescapable that Sri Lanka is trying to kill or terrorize as many Tamil people as possible.

13. Under the Convention on the Prevention and Punishment of the Crime of Genocide, acts of murder committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such are considered as acts of genocide. The actions of the Sri Lankan authorities in their war on the Tamil people amount to genocide. The evidence serves to establish the murder and rape of members of the group, torture and grave attacks on their physical and mental integrity, and the subjection of the group to conditions leading to their deaths.

14. Impunity for those responsible for human rights violations and breaches of humanitarian law remains a serious concern. Progress in a few court cases against members of the security forces charged in connection with "disappearances" and extrajudicial execution is slow, as are investigations into many other cases.

15. At the same time, the Sri Lankan Government has imposed tight press censorship. It is impossible for journalists to enter Jaffna without prior approval from the Government Censorship and restriction on access to the north have not only kept the public uninformed, but have also made the process of providing humanitarian assistance to the victims of war more difficult and have also concealed violations of humanitarian and human rights law.

16. We regret that the Sri Lankan Government continues to treat Tamil resistance to oppressive Sinhala rule as an "internal disturbance" and labels it as "terrorism" and in this way attempts to legitimize its genocidal onslaught on the Tamil people.

17. The conflict on the island is clearly an armed conflict, because the Liberation Tigers of Tamil Eelam are admittedly an organized armed force, under responsible command, exercising control over a part of the territory of the island, and able to carry out sustained and concerted military operations. It is a conflict in which Sri Lanka has mobilized a 150,000 strong army backed by a sophisticated air force and naval gun boats to pursue its ends.

18. In February 1988, LTTE announced that it would abide by the provisions of the Geneva Conventions 1949 and its Additional Protocols I and II. The existence of an armed conflict on the island has also been recognized by the Commission and in several statements made by non-governmental organizations at sessions of the Commission as well of the Sub-Commission during the past several years.

19. The conflict on the island is an armed conflict in which the Tamil people are fighting against alien Sinhala occupation in the exercise of their right to self-determination, and it is our view that the peaceful and just resolution of the conflict on the island will not be furthered by Sri Lanka's continued refusal to accord recognition to the Liberation Tigers of Tamil Eelam as a party to an international armed conflict.

20. The two International Covenants on Human Rights law declare that all people have the right to self-determination. If democracy means rule of the people, by the people, for the people, why then is there no right to self-determination for the Tamil people? The right of self-determination means that no one people may rule another. The Tamil people have lived since ancient times within relatively well-defined geographical boundaries in the north and east of the island of Sri Lanka; they share an ancient heritage, a vibrant culture, and a living language which traces its origins back more than 2,500 years. They have, in addition, acquired a subjective political consciousness of oneness, by their life together in their traditional homeland and by their struggle against oppressive alien Sinhala rule, and they constitute a people, with a right to self-determination.

21. The war that Sri Lanka is waging against a people struggling to assert their right to self-determination is unlawful and unjust and the recent example of the withdrawal of Russian troops from Chechnya serves to underline the urgent and imperative need for Sri Lanka to withdraw its armed forces from the Tamil homeland and in this way advance the peace process. We therefore urge the Commission:

(a) To condemn Sri Lanka's genocidal war against the Tamil people;

(b) To call upon Sri Lanka to withdraw its armed forces from the Tamil homeland in the north-east of the island of Sri Lanka and to end its war of aggression against the Tamil people; and

(c) To call upon the two parties to the armed conflict to secure a political solution which recognizes the right of the Tamil people to freely determine their political status.